

Final Report

Citizen Advisory Council on Captive Cervids
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Submitted to the
Indiana Department of Natural Resources
Indiana Board of Animal Health

By
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BACKGROUND

Over the last couple of years, there have been conflicts between various interest groups relating to the taking/possession of captive-reared cervids. During the last legislative session, Indiana lawmakers and Department of Natural Resources (DNR) regulators were each working to address concerns about captive cervid regulation - but the solutions were in conflict.

Due to the spread of chronic wasting disease in North American deer herds, DNR Director John Goss issued an emergency rule to halt issuance of permits for breeding white-tail deer. At the same time, some state representatives were proposing legislation that would prevent DNR from regulating deer in captivity.

Indiana legislators and officials from the DNR and the Board of Animal Health (BOAH) met in March and concluded that the complicated issue needed to be researched and discussed further before a course of action was taken.

To address this need the DNR and the BOAH charged an advisory council, the Citizen Advisory Council on Captive Cervids (CACCC) to develop recommendations for management of captive cervids in Indiana. The directions given to the Council were:

CACCC Focus: to resolve conflicts between various interest groups relating to the taking/possession of captive-reared cervids, and

CACCC Charge: to develop administrative rules, legislative recommendations, and/or policy changes toward this focus topic.

The ten members of the CACCC represented concerned constituent groups, the DNR and the BOAH. The members were:

Mr. Doug Allman	Indiana Deer Hunters Association
Mr. Chuck Bauer	Indiana Izaak Walton League
Mr. David Dimmich	Indiana Deer Farmers Association
Mr. Pete Hanebutt	Indiana Farm Bureau
Mr. Gene Hopkins	Indiana Sportsmen's Roundtable
Mr. Frank Keeton	Indiana Elk Breeders Association
Mr. Glenn Lange	Indiana DNR - Division of Fish and Wildlife
Mr. Doug Metcalf	Indiana Board of Animal Health
Mr. Brad Thurston	Indiana Deer Farmers Association
Ms. Paula Yeager	Indiana Wildlife Federation

To guide the effort the Director Goss and Dr. Marsh gave the Council the following sideboards or guidelines:

The Council makes all decisions and recommendations by consensus (where consensus was defined as all Council representatives in attendance must be in agreement),

Meetings must be completed by May 15, 2004 with the final report due by June 15, 2004,

The Council must devise a viable funding proposal for any program, administrative rule, legislative and/or policy changes that require additional state funding,

Any solutions by the Council must be consistent with core values of BOAH and DNR,

The Council representatives must develop ways to involve the stakeholders they represent,

All meetings are open to public and allow some public input at each meeting. Meetings will be held in various parts of the state,

The Council will establish a series of separate public meetings to obtain input on any proposed recommendations, and

No proxies are allowed for stakeholder representatives on the Council. .

Representatives, when not able to attend a meeting, may appoint an observer to be recognized at the meeting.

To assist the Council, Tom Wasson of Dynamic Solutions Group, LLC, an experienced planning consultant/facilitator, was hired to help define and manage the planning process in a professional, unbiased fashion. Ms. Jeanne Odafter, DNR, served as recorder and Ms. Debbie Bray, DNR, served as secretary. Funding for the Council was provided by the DNR, Division of Fish and Wildlife (facilitation services and facilities rental) and the Indiana Deer Farmers Association (Council members meals and lodging).

APPROACH

The Council's approach included the following elements:

Gather background information,

Identify and understand the specific issues,

Identify and discuss potential recommendations,

Decide on recommendations,

Public input meetings,

Revise recommendations, as needed, and

Submit Recommendations to the Directors of DNR and BOAH

Public Involvement: The Council decided at its first meeting that keeping the public informed and involved was very important. Several actions were taken to facilitate this:

Meeting locations were moved around the state so interested citizens could attend without traveling great distances.

The meeting schedules varied between weekdays, weekends, daytime and evening to allow individuals with different schedules to attend.

All Council meetings were open to the public and public input was sought at the meetings. Often, more than one public input session was scheduled in a single meeting to accommodate citizens who could only attend part of a meeting.

A special e-mail address was available to receive input from citizens who could not attend a meeting.

Citizens were also encouraged to write letters.

Copies of all e-mails and letters were distributed to each Council member for their review.

An Internet web page was developed and managed by DNR to keep citizens informed. At this site an individual could learn about the Council, its schedule, and its activities or register with a listserv to keep updated as new information became available.

To get input from the public about the draft recommendations the last public involvement task was four Open Houses held around the state (in Vincennes, Seymour, Fort Wayne and West Lafayette and from 2:00 p.m. until 7:00 p.m.) The Open Houses were held in late March and early April 2004.

Over 600 citizens participated in the various Council activities:

Activity	Number of Citizens Involved *
Attending Council Meetings	200+
Providing comments at a Council Meeting	108
Providing e-mail comments to the Council	110
Letters and handed-in comments to the Council	28
Attending an Open House	170
Providing handed-in comments at Open Houses	115
Total	731+
* With some margin for double-counting error.	

Council Meetings: The CACCC had nine meetings over a nine month period with the first on August 28, 2003 and the last on April 5, 2004. There were seven one-day meetings and two two-day meetings. The one-day meetings ran from 9 a.m.

to 6 p.m. The two-day meetings included evening sessions. The facilitator ran each meeting with another person serving as recorder. Decisions and major discussion points were documented in meeting reports from each meeting. These reports were distributed to Council members and posted on the web page.

The agenda for the first meeting was a combination of organizational items and information gathering. Director Goss, DNR and Dr. Marsh, BOAH reviewed the Council's the Focus and Charge. The Council adopted grounds rules and established meeting schedules and public input protocol. The Council took testimony about current laws and rules from Lt. Colonel Jeff Wells, Executive Officer, DNR, Division of Law Enforcement and Mr. Gary Haynes, Esq. Director of Legal Affairs and Licensing, BOAH.

At the next couple of meetings, the Council continued gathering information and began to define the issues. The Council visited Mr. Russ Bellar's shooting preserve/deer farm; viewed a "Photo Tour" of deer farms; took testimony from experts; and had staff from DNR and BOAH provide information about current actions in Indiana and in other states. Expert testimony was provided by:

Dr. Wayne Cunningham,	State Veterinarian, State of Colorado
Dr. Tamara Garland, PhD	Director of Ruminants, BOAH
Dr. Jim Mitchell, PhD	Deer Mgt. Biologist , Indiana DNR
Dr. Julie Langenburg,	Veterinarian, Wisconsin DNR
Mr. Chris McGeshick,	Chief of Special Operations, Enforcement Bureau Wisconsin DNR

At the third meeting, the Council consolidated a long list of concerns into six primary issues that needed attention:

Issue I - Regulatory	How will cervids be regulated and who will regulate?
Issue II - Cervid Health	What should be involved in the protection of "wild and farmed" cervids?
Issue III - Harvest	If, under Indiana law, keeping cervids behind a high fence is permitted, under what conditions is it acceptable?
Issue IV - Social	Social Implications of the captive cervid issues?
Issue V - Economics	How to pay for any regulatory oversight?
Issue VI - Deer Harbors	How do we regulate the non-commercial possession of cervids?

During the last six meetings the Council members worked hard to understand the various viewpoints on these issues, talk through various options, and develop recommendations. Much of the discussion focused on just two topics: Chronic Wasting Disease (CWD) and Shooting Preserves. While the discussions were sometimes strong and to the point, Council members showed a willingness to listen and respect new ideas and, at times, moved away from previously held

positions. At the seventh meeting, the Indiana Farm Bureau member advised the Council that he would not attend future meetings, due to schedule conflicts.

DRAFT RECOMMENDATIONS

Agreement was not reached. It was the position of the cervid industry that without agreement on some core issues, they would not support the full package of draft recommendations. Absent consensus agreement, the Council did agree that because the agencies need to address captive cervids this report should include these draft recommendations and the final unresolved position statements about shooting preserves.

As agreed by the Council, this report documents this information by presenting the draft recommendations as presented at the Open Houses and for those issues where there was not agreement, the position of both the industry and hunting representatives is presented.

Please note that the recommendations do not link directly to the six issues identified by Council, but are action items that address one or more of this issues.

Rehabilitation of White-Tail Deer

Rehabilitation of white-tail deer entails the practices of caring for injured animals or orphaned animals. It is the sense of CACCC that the rehabilitation of white-tail deer serves a need important to Indiana citizens. Scientific evidence tells the CACCC that there is no measurable biological benefit to the state's herd. While the CACCC believes this practice should be curtailed, CACCC accepts the status quo with a recommendation that DNR add to its rehabilitation rule a provision requiring visual, individual, and permanent identification of rehabilitated deer and that records of the identification and disposition of the animal be maintained.

DNR should add to its rehabilitation rule language that requires:

- Release of the rehabilitated deer within 180 days or the animal should be euthanized,

- That the rehabilitated deer be released in the same county from which it was found with the permission of the landowner,.

- Rehabilitation records must maintained for five (5) years, and

- DNR and the Natural Resources Commission should develop a non-rule policy to address the rehabilitation of fawns.

Cervids as Pets

The CACCC proposes, the private ownership of cervids for certain purposes is legal in Indiana. It is the recommendation of CACCC that the possession of cervids as pets should be regulated as follows:

Possession of cervids as pets means the private ownership of a member of the cervid family where the owner does not use the cervid for economic gain, commercial use or breeding,

CACCC does not believe that cervids should be possessed as pets,

The DNR controls the possession of cervids as pets which are native to the lower 48 states (white-tail deer, mule deer, elk, moose and caribou) to fulfill their responsibility for proper management of native wildlife,

CACCC believes BOAH should establish rules necessary and sufficient to safeguard the health of cervids maintained as pets and protect the health of other native and non-native species that may come in contact with these pet cervidae, and

CACCC believes that the appropriate regulations should be developed or modified to accomplish the following:

- Phase out the possession of DNR-controlled animals as pets,
- Allow existing permit holders to possess DNR-controlled animals as pets until those animals die,
- No new permits will be issued for DNR-controlled animals as pets
- Establish rules regulating the husbandry of existing DNR-controlled animals as pets and require individual and permanent identification of the remaining animals,
- Require the immediate reporting of all animal mortality and escapes to BOAH,
- No DNR-controlled animals can be released into the wild,
- Require a permit for each DNR-controlled animal possessed, and
- Assess a permit fee to cover all costs of permit system, including periodic premise inspections.

Regulatory Functions of DNR and BOAH

DNR and BOAH share responsibility for the regulation of cervids. BOAH manages issues related to cervid health and slaughter. DNR manages issues related to possession and use of cervids native to the lower 48 states (white-tail deer, mule deer, elk, moose and caribou). DNR regulates the hunting of all cervids. The CACCC notes that DNR and BOAH responsibilities overlap in some areas.

CACCC recommends the following division of responsibilities:

Fencing – DNR be responsible for the fencing rules for the species named above.

Inventory – BOAH be responsible for maintaining a common database that inventories the animals and facilities that can be used by both agencies.
Identification – BOAH be responsible animal identification rules. The rules must be in compliance with federal rules and should extend those rules to intra-state movement of animals. The unique animal identification tag/mark must be permanent and visible at 50 yards. This information must be in a common data base,
Record Keeping – BOAH and DNR are jointly responsible for providing information for the common database that will be managed by BOAH.
Hunting – DNR is responsible for hunting of all cervid species.
Possession Permits/Licenses – DNR is responsible for the possession permits/ licenses for species named above, including husbandry requirements. This information will be in the common database.
Registration for Health Purposes – BOAH is responsible the health testing and registration for all cervid animals/herds and facilities. The information will be in the common database.
Inspections – BOAH and DNR are jointly responsible for inspection of animals and facilities to insure compliance with all rules.

The CACCC recommends that all required records of inventory, registration, identification, and possession be maintained by the appropriate agency and in a common, electronic database accessible via computer by both agencies.

The CACCC is concerned that the DNR and BOAH will not have adequate funding for the proposed additional responsibilities. Funding **MUST** be generated by legislation.

The CACCC recommends that BOAH and DNR consult with one another when disease issues affect free-ranging animal species covered by IC 14-22.

The CACCC recommends that all persons must have appropriate permits before obtaining cervid.

Fencing

Adequate fencing is important to captive cervid management. It keeps wild cervids outside the fence and privately owned cervids inside the enclosure. It also impedes the transmission of disease. CACCC recommends:

It is **ILLEGAL** to construct a fence or enclosure to contain wild white-tail deer.

Requirements for existing fencing:

- 1) In any case in which a fence or enclosure contains wild white-tail deer from which the deer are unlikely or unable to escape, the facility owner must contact

the Indiana Department of Natural Resources to work out a plan to deal with these deer.

- 2) Fencing that currently contains privately owned cervids.
 - a) General - A property with privately owned cervids must take precautions to keep these cervids from escaping. Specifically, fencing, gates, locks, and operational procedures of these facilities shall prevent escape of the cervids.
 - b) All facilities for privately-owned *Cervus elaphus* (elk, wapiti, and red deer), *Cervus nippon* (Sika deer, Japanese deer, Japanese Sika deer, spotted deer, and Japanese spotted deer), *Odocoileus hemionus* (mule deer), hybrids or other breeds of aforementioned species, and any other animal of the family cervidae, if any member of its species has been diagnosed with CWD, it must have a perimeter game fence with an effective height of 8 feet.
 - c) Those facilities intended for privately-owned white-tail deer, *Odocoileus virginianus*, must have a perimeter game fence with an effective height of 10 feet
 - d) Conversion to perimeter fence height requirements must occur on or before July 1, 2008 by either:
 - a. Adding height to the fence to come into compliance or
 - b. Adding a second 8-foot perimeter game fence not closer than 10 feet to or farther than 30 feet from the existing perimeter fence,
 - c. Except if CWD is diagnosed in Indiana in which case perimeter fence height must be compliant by the earlier of July 1, 2008 or one year from the date of the diagnosis
 - e) When greater than 50 feet of the fence requires replacement of existing fence then new fence structure requirements must be met.

Requirements for new fence construction

1. If a fence or enclosure is to be constructed which is likely to contain wild white-tail deer by making it unlikely that the deer may escape, the Indiana Department of Natural Resources will be consulted to aid in planning how to remove or exclude wild white-tail deer.
2. If a property is intended to contain captive cervids, the property must exclude all wild white-tail deer by legal methods prior to the release of captive cervids. The DNR will determine the method of exclusion. The DNR must verify the absence of wild deer from the property prior to the release of captive cervids.
3. General - A property with privately owned cervids must take precautions to keep these cervids from escaping. Specifically, fencing, gates, locks, and operational procedures of these facilities shall prevent escape of the cervids.
4. All facilities for privately owned *Cervus elaphus* (elk, wapiti, and red deer), *Cervus nippon* (Sika deer, Japanese deer, Japanese Sika deer, spotted deer,

and Japanese spotted deer), *Odocoileus hemionus* (mule deer), hybrids or other breeds of aforementioned species, and any other animal of the family cervidae, if any member of its species has been diagnosed with CWD, the facility must have a perimeter game fence with an effective height of 8 feet.

5. Those facilities intended for privately owned white-tail deer, *Odocoileus virginianus*, must have a perimeter game fence with an effective height of 10 feet or 2 fences with an effective height of 8 feet not less than 10 nor more than 30 feet apart. Escapes - Any escape of privately owned cervids must be reported to the DNR within 24 hours of knowledge of the escape. Failure to notify the DNR of an escape of captive cervids will result in fines and the possibility of forfeiture of permits to keep captive cervids.

Identification of Animals

Allow for escaped animals to be easily identified and therefore recovered or destroyed and to trace animal movement and death history.

Issues		Agreement Status	Sportsperson / Animal Welfare Position	Cervid Industry Position
Permanent identification visible from 100 yards or more		Agreement	Agree	Agree
Two different kinds of unique individual animal identification		Agreement	Agree	Agree
	Branding (using freeze brand)	Agreement	Agree	Agree
	Radio frequency ID	Agreement	Agree	Agree
	Ear tag	No agreement	Must be one of the two ID types	Only as one of the four options
	Tattoo	Agreement	Agree	Agree

Exit Strategy

A mechanism to allow an owner of captive cervid facilities to leave the industry.

Issues		Agreement Status	Sportsperson / Animal Welfare Position	Cervid Industry Position
Animals can be sold to another license holder		Agreement	Agree	Agree

Slaughter of animals	No agreement	Limited time period	Unlimited time period
No repopulation of facility after exit	Agreement	Agree	Agree
Facilities to be inspected after depopulation to verify animals are gone	Agreement	Agree	Agree

Penalties

Penalties for violations governing importation of cervids are important because of disease transmission.

Issues	Agreement Status	Sportsperson / Animal Welfare Position	Cervid Industry Position
Violations of importation restrictions will carry penalty of class "D" felony. Includes live animals and carcasses. Presently can bring back deboned meat and/or carcass to meat packer or taxidermy within 72 hrs. Except from CWD infected states: IL, CO, WY, SD, NB, NM, MN, WS, Saskatchewan & Alberta Canada (illegal to process yourself).	Agreement	Agree	Agree
Penalty includes loss of license (hunter or facility)	Agreement	Agree	Agree
Penalty includes forfeiture of equipment used or personal property	Agreement	Agree	Agree
Penalties for shooting preserve violations	No agreement	Class "D" felony	Lesser penalties
Penalties for importing cervids without a permit	No agreement	Class "D" felony	Lesser penalties

Shooting Behind Fences

If agreed to, under what conditions is shooting behind a fence is acceptable?

Issues	Agreement Status	Sportsperson / Animal Welfare Position	Cervid Industry Position
Facility size			
Shooting area size	No agreement	500 acres	80 acres
Escape cover 40%	Agreement	Agree	Agree
* Artificial feeding			
100 yards from stand	No agreement	Dissent	Agree
Multiple feed locations	No agreement	Dissent	Agree
No electric feeders	Agreement	Agree	Agree
Feeders out of sight	No agreement	Dissent	Agree
* Stand location 75 yards from perimeter	Agreement	Agree	Agree
* Contingent upon shooting area size			
Name of licensed shooting areas - "shooting preserve"	Agreement	Agree	Agree
New animal release			
Animals acclimated to area before shooting	Agreement	Agree	Agree
Days before animal is shot	No agreement	30 days	20 days
Hunter density of 1 hunter per 20 acres	Agreement	Agree	Agree
Shooting preserve season	No agreement	Current seasons	Extended seasons
Shooting preserve areas required to be licensed	Agreement	Agree	Agree
Hunters required to be licensed with special shooting preserve license	Agreement	Agree	Agree
No assistance provided to hunters (no driving deer)	Agreement	Agree	Agree
Shooting preserve fee based on trophy size	No agreement	Single fee per animal	Fee based on size of animal or antlers
Shooting proximity to fence	No agreement	75 yards	None
Grandfathering of existing facilities	No agreement	Only for facilities with 100 acres or more	Facilities with 80 acres or more

Final Positions on Shooting Preserves

The sportsperson's final position concerning shooting preserves.

New Facilities: These facilities must be 500 acres or more. No limit for the number of these new facilities.

Existing Facilities: Up to 30 existing facilities that are 80 acres or larger will be permitted.

Transitional facilities: (Those who own deer as of 1/1/04, but not currently operating a shoot preserve.) These transitional facilities must be 160 acres or more.

Existing and transitional facilities can be inherited at their current size, but can't be sold to another person.

An individual or corporation cannot have interest in more than 2 facilities.

Artificial feeding as per previously discussed

Seasons & Weapons: For archery, the season is September 1 and ends January 10. For firearms, the season stays the same as outside the fence and the weapons stays the same.

No bag limit different than the Indiana season.

Escape cover:

50% escape cover must be made up of the following: minimum 75% forest and/or shrub cover defined as follows - forest: at least forty square feet of basal area per acre or at least four hundred trees, of at least 15 feet in height, per acre - shrub: at least 1000 woody stems per acre, at least 4 feet in height. All woody growth must be healthy, living trees or shrubs.

50% escape cover can be made up of entirely forest and/or shrubs. Other types of acceptable vegetation for remaining 25 % defined as follows – warm season grasses of at least 3 feet in height or standing corn of at least 5 feet in height. Escape cover must be dispersed throughout facility with no parcel larger than 20 acres.

Example:

160 acres minimum facility

80 acres escape cover

60 acres minimum forest/shrub

20 acres other escape cover vegetation

Trophy fees: Okay for the industry to have trophy fees, if all the other items in the proposal are agreed to.

Antler marking: Must have a hole drilled in the antler, not less than 1/4".

The cervid industry position on some core issues concerning shooting preserves:

New Facilities: These facilities must be 100 acres or larger.

A facility owner must have ability to sell their shooting preserves to a willing buyer.

The shooting preserve owner will establish trophy fees.

Captive cervids are to be defined as domestic livestock.

There will be no restrictions on the number of shooting preserve facilities.

NOTE: Copies of all meeting reports, support materials distributed to the Council along with emails, letters and written comments are on file with DNR. Contact Debbie Bray, Division of Fish and Wildlife, 402 W. Washington St., Room 273W, Indianapolis, IN 46204; Email - dbray@dnr.IN.gov - Telephone: 317-232-4080